IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 23271 of 2007(U)

PETITIONER:

YASODHARAN, S/O. AYYAKUTTY,
EATTIVILA PUTHEN VEEDU, CHEEVODU,
ELIKKATTOOR P.O., PIRAVANTHOOR, KOLLAM DISTRICT.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
KOLLAM.

2. THE SPECIAL TAHSILDAR (L.A.),
NATIONAL HIGHWAY, KOLLAM-12.

BY GOVERNMENT PLEADER SHRI L.G. SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 23271 OF 2007

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Dated this the 17th day of September, 2007

J U D G M E N T

Property belonging to the petitioner was acquired for a public purpose. Award No.2/06-7 in LAC No.157 of 2006 was passed fixing compensation. Petitioner received the compensation on 29.3.2007. On 26.4.2007 petitioner filed Exhibit P3 application under Section 18 of the Land Acquisition Act for referring the matter to the Sub Court for considering his claim for enhancement of compensation. That application was rejected by the Land Acquisition Officer as per Exhibit P4 order dated 11.6.2007 on the ground that when the petitioner received the D-Form cheque he did not raise any objection and the amount was received without protest. According to the petitioner he received the amount after raising an oral protest. It is settled law that the protest raised at the time of receipt of compensation by way of cheque need not be in writing, but it can be by oral. So the reasons stated by the Land Acquisition Officer for rejecting

Exhibit P3 application filed by the petitioner on 26.4.2007 is unsustainable and liable to be quashed. The Land Acquisition Officer ought to have referred the matter to the Sub Court.

In the result, the Writ Petition is allowed. Exhibit P4 order passed by the Land Acquisition Officer rejecting Exhibit P3 application filed by the petitioner is hereby set aside. There will be a direction to the Land Acquisition Officer, second respondent, to pass fresh orders in Exhibit P3 application as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 23271 OF 2007

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J U D G M E N T

17TH SEPTEMBER, 2007